

IN THE SENATE OF THE UNITED STATES.

JUNE 11, 1860.—Ordered to be printed.

Mr. FESSENDEN made the following

REPORT.

[To accompany bill S. 501.]

*The Committee on Finance, to whom was referred the petition of Henry Rice, report:*

On the 1st of September, 1814, the British forces took military possession of the port and town of Castine, in the State of Maine, and of the surrounding country, which they held until the termination of the war. During this period, the revenue laws of the adjacent province of Nova Scotia were extended to the port of Castine, and the duties required thereby were rigidly collected upon all merchandise imported. This is shown by the affidavit of the British collector of the port at the time, which is amongst the papers.

On the evacuation of the town by the British, the United States revenue officers demanded and enforced the payment, or security by bonds, of the duties required by our tariff, on all imported goods then remaining in the hands of the merchants, notwithstanding the same had already paid duties to the authorities in possession of the port at the time of importation.

After the payment of many of these bonds, the legality of the imposition of the duties for which they were given became a matter of controversy. Suit was brought in the circuit court of Massachusetts, upon one of these bonds, and a judgment rendered for the defendant. Upon appeal, the judgment was affirmed by the unanimous opinion of the Supreme Court. In delivering their opinion, the Supreme Court say: "The single question arising in the pleadings in this case is, whether goods imported into Castine, during its occupation by the enemy, are liable to the duties imposed by the revenue laws upon goods imported into the United States." \* \* \* \* \*

"We are all of opinion that the claim for duties cannot be sustained." (4 Wheaton, 246.)

In conformity with the decision, the bonds remaining unpaid were canceled by the Secretary of the Treasury. The same doctrine was held by Attorney General Wirt, in an opinion given to the Secretary of the Treasury, in 1818, in reference to goods found at Eastport, on the evacuation of that place. Immediately after the rendition of the

judgment of the Supreme Court, those parties who had previously paid their bonds, appealed to Congress for the reimbursement of the money thus illegally exacted from them, and amongst those petitioners was the present applicant. These petitions were submitted, by the chairman of the Committee of Finance, to the Treasury Department, and in answer the Secretary, William H. Crawford, under date of 1st March, 1819, says: "A bill which shall direct the repayment of all sums embraced by the opinion of the Supreme Court, which have been paid into the Treasury, will furnish the relief to which the petitioners and all others similarly circumstanced, are entitled."

An act was accordingly passed, approved April 11, 1820, "for the relief of certain persons," &c. therein named, (and amongst them is the present petitioner,) directing the Secretary of the Treasury to repay them the sums "which they had paid into the treasury for duties upon goods imported into Castine while in possession of the British forces: *Provided*, That it shall be proved to the satisfaction of the Secretary of the Treasury that the claimants above named were residents of Castine or Bucksport," &c. (6 Statutes, 241.)

As this *proviso* excluded Mr. Rice and several others who did not happen to be residents of either of those two places, they continued their applications to Congress until 1824, when another act was passed, providing for the repayment to sundry merchants of Boston, New York, and Baltimore; but this being a House bill, and Mr. Rice's petition being in the Senate, his name was not included. His petition was again presented to the next Congress, (in 1826,) and the Committee on Finance again reported in favor of the reimbursement of the money. After alluding to the history of the case and the legislation of 1820 and 1824, the committee say they "do not perceive that the residence of the importer or owner of the goods can vary the law in the case." "The decision of the Supreme Court is *that the duties could not be legally exacted*." "The memorialists pray that similar justice may be granted to them as has been granted to all others similarly situated," which "the committee think ought to be granted." The bill, however, failed to obtain the action of Congress. The petition was again renewed at the two succeeding Congresses, but with like results. And thus, after continuous and unremitting solicitations for the reimbursement of money, not only judicially decided, but uniformly admitted, to have been illegally exacted by and paid to the government, under an erroneous legal construction of its own rights, for a period of thirteen years, this petitioner, leaving the evidence of the justice and equity of his claim in the archives of Congress, is compelled to remit his personal exertions to obtain redress, and devote his time to more hopeful pursuits. Under these circumstances, the committee think the claimant is not justly chargeable with inexcusable laches in the prosecution of his claim.

The claim is for the reimbursement of the sum of \$10,539 88, paid into the treasury of the United States on the 17th of July, 1815, under the circumstances above stated.

The original bonds upon which the money was paid, and stating that it was "for merchandise entered by Henry Rice, as imported into

Castine during the occupation of the British troops," are amongst the papers in the case.

It is shown by letter from the Treasury Department, in response to an inquiry from this committee, that this money has not been repaid to Mr. Rice. The Acting Secretary assigns as the reason why the money was not paid, that "the evidence produced at the department showed that Henry Rice was not a resident of Castine or Bucksport, and had not purchased the merchandise from such residents under the terms of the proviso, it was accordingly decided that he could not receive repayment."

This was under the act of 1820, which, as has been stated, embraced Mr. Rice's case by name, but from the benefits of which he was excluded, as above shown, for the sole reason that he was a resident of Boston, and not of Castine or Bucksport.

The act of 1824 extended the same measure of relief to sundry merchants of Boston, New York, and Baltimore, thus showing the purpose of Congress to overrule the proviso to the act of 1820, doubtless for the reasons already quoted from the report.

The committee regarding this case as free from all doubt, report a bill for the relief of the claimant, and recommend its passage.

